

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WILLIAM A. CHARLES,

Petitioner,

v.

Case No. 05-C-529

STATE OF WISCONSIN,

Respondent.

ORDER ON RULE 4 REVIEW

On May 12, 2005, the petitioner, William A. Charles (“Charles”) filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. According to the petition, on October 30, 2002, Charles pled guilty to, and was convicted of, battery, disorderly conduct, and obstructing an officer in the Brown County Circuit Court. He was sentenced to serve twelve months in jail.

Charles’ petition is less than a model of clarity with respect to the history of his case in the Wisconsin state appellate courts. Because the petition is so, this court performed an on-line review of Charles’ case as it appears at the official website of the Wisconsin state courts – www.wicourts.gov. According to the information on that website, Charles’ conviction was affirmed by the Wisconsin Court of Appeals on December 14, 2004. Thereafter, on January 12, 2005, Charles filed a petition for review with the Wisconsin Supreme Court. Turning from the website (because the website itself states that it has not been updated since March 31, 2005) and back to Charles’ petition, it would appear that on April 6, 2005, the Wisconsin Supreme Court denied his petition for review.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts provides, in pertinent part, that

[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified. Otherwise the judge shall order the respondent to file an answer or other pleading within the period of time fixed by the court or to take such other action as the judge deems appropriate.

After a review of Charles' habeas corpus petition, I cannot say that "it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court." Accordingly, the respondent will be ordered to file an answer to the petition or, in the alternative and if deemed justified, an appropriate motion.

NOW THEREFORE IT IS ORDERED that, on or before August 1, 2005, the respondent is to file an answer to the petition or, in the alternative and if deemed justified, an appropriate motion. After the court has had an opportunity to review the respondent's answer or motion, it will set a briefing schedule on the issues raised in the petition, if it deems such briefing to be necessary and appropriate.

IT IS FURTHER ORDERED that, within ten (10) days of the date of this order, the parties are to execute and file with the clerk of court their magistrate judge consent/non-consent forms.

SO ORDERED this 9th day of June 2005, at Milwaukee, Wisconsin.

s/ William E. Callahan, Jr.

WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge